

TRANSMITTAL SLIP 2 May 1985

TO: OLL

ROOM NO. **BUILDING**

REMARKS:

FROM: Charles E. Allen, NIO/CT-NARC

ROOM NO. **BUILDING** **EXTENSION**

FORM NO.
1 FEB 56 241

REPLACES FORM 36-8
WHICH MAY BE USED.

(47)

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U.S. House of Representatives

SELECT COMMITTEE ON
NARCOTICS ABUSE AND CONTROL
ROOM H2-234, HOUSE OFFICE BUILDING ANNEX 2
WASHINGTON, DC 20515

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April 16, 1985

OAC

The Honorable Caspar W. Weinberger
Secretary of Defense
Department of Defense
The Pentagon
Washington, DC 20301

Dear Mr. Secretary:

Over the past few months this Committee has received numerous highly responsible requests to explore the feasibility of expanding the participation of our military services in drug interdiction and enforcement. This issue has received an increased amount of media attention and several groups of public officials, such as the Southern State Governors' Association, the Gulf State Governors' Association and the National Association of Attorneys General, have called for increased utilization of the military in drug interdiction.

Proponents of an increased role for the military argue that:

1. Our current interdiction efforts, including the South Florida Task Force and the National Narcotics Border Interdiction System (NNBIS) have failed to appreciably reduce the amount of illegal drugs entering the United States. A massive infusion of resources is needed to respond to the drug trafficking threat. Therefore, it is imperative, while the nation is not at war, that we use Army, Navy and Air Force equipment and manpower to combat drug trafficking.
2. The military has available manpower, equipment and bases that can be used against drug smugglers more quickly and at less cost than would be required to build up the manpower and resources of DEA, the Customs Service and the Coast Guard to perform the same missions.
3. Drug trafficking is a national security threat because it undermines the health and welfare of the country. As such, combating drug smuggling is a proper national security role for our military. Moreover, the military should be actively participating in activities that guarantee the security of our nation's borders. If our borders are vulnerable to drug trafficking, they can be equally vulnerable to the entry of aircraft, weapons and other dangerous devices and materials that can endanger the security of the United States.

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Opponents of an increased role for the military in drug enforcement make the following arguments:

1. Any further extension of the role of the military in drug law enforcement would be a threat to civil liberties. As the House Judiciary Committee noted in its report on the 1982 Defense Authorities Act exception to the Posse Comitatus statute:

Most importantly the Committee rejected the granting of arrest and seizure authority to the military because it believes that such a grant of authority would fundamentally alter the nature of the relationship between the military from day to day involvement in the execution and operation of the civilian laws must overcome a strong presumption against it. Any change in this tradition may affect the rights of the civilian community, and may also have a potentially negative effect on the necessary apolitical professionalism of our Armed Forces. In this situation the case for a change was not made.

2. The fundamental and paramount role of the military is national defense. Any large-scale depletion of resources to engage in civilian law enforcement activities will affect military readiness, according to Lt. General R. Dean Tice, Director of DoD's drug enforcement task force.

The 1981 amendments to the Posse Comitatus statute provided for military cooperation with civilian law enforcement officials to the extent of furnishing drug intelligence information collected in the course of military operations, the use of military equipment and facilities, training and advice to civilian law enforcement personnel, and military personnel to operate and maintain military equipment in the hands of the civilian law enforcement agencies.

The civilian agencies inform us that in their judgement two provisions in the Posse Comitatus amendments of 1981 that have prevented effective utilization of military support in their drug enforcement efforts have been (1) the requirement to reimburse the military for support services when they have no funds for this purpose, and (2) the requirement that military commanders cannot provide support if it detracts from their defense readiness capability. This causes military commanders to be extremely cautious in lending equipment to civilian drug enforcement agencies lest they be charged with weakening their military readiness.

I would like to begin the examination by this Committee of the feasibility of increased military participation in drug interdiction and enforcement with a closed briefing of the Committee by representatives of the Department of Defense and the Army, Navy and Air Force.

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I would like the following proposals, which are the most frequently made to us to be addressed at the briefing:

1. Given the fact that U.S. Customs and the DEA estimate that about 18,000 aircraft and another 18,000 boats or vessels are entering the United States annually with illicit drug cargoes and only 2 percent are interdicted, the Congress should enact legislation declaring for a specific period of time that an auxiliary mission of the U.S. Armed Forces under the direction of the Secretary of Defense is to interdict the illicit importation of narcotic and psychotropic drugs into the United States. If this "auxiliary mission" is properly defined and funded is there any reason why the DoD could not support this legislation.
2. Congress should enact legislation authorizing and requiring the United States Navy, pursuant to specific authority of the Secretary of Defense, to conduct drug enforcement operations at sea. Specifically, the Navy should be charged with intercepting narcotic trafficking at sea, particularly, but not limited to, the areas of the Caribbean and southeastern shoreline of the United States. It should be empowered to stop vessels of any nationality about which there is reasonable cause to believe that illegal narcotics are on board and intended for delivery within the United States, to search such vessels and to seize any illegal drugs or narcotics and any narcotics contraband found thereon. Additionally, Navy personnel should be permitted to make arrests and to deliver any person so arrested and any seized contraband to the appropriate civil authorities of the Federal Government of the United States. If properly authorized and funded for this mission is there any reason why the DoD could not support this legislation?
3. Congress should enact legislation authorizing and requiring the United States Air Force, pursuant to specific authority of the Secretary of Defense, to utilize its aircraft, radar equipment, and personnel to assist drug enforcement officials of the Federal Government in detecting and intercepting drug smuggling aircraft attempting to penetrate the coastline and land borders of the United States. The Air Force would be required to provide sufficient radar equipment, intercept aircraft and personnel to ensure coverage of the coastal and border areas most vulnerable to the illegal importation of drugs. Air Force personnel would be authorized to assist civilian federal drug enforcement officials in performing searches for and seizures of illegal narcotics and in making arrests. If this mission was to be properly defined and funded is there any reason why DoD could not support this legislation?
4. A. Congress should enact legislation authorizing and requiring the use of United States Army personnel, pursuant to specific authority of the Secretary of Defense, to assist the United

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States Customs Service drug enforcement efforts at all ports of entry, including, but not limited to, all major seaports and all airports receiving international flights. Army personnel working in conjunction with the U.S. Customs Service will be authorized to patrol land border and coastal areas used by drug smugglers to penetrate the United States. Also to perform searches of baggage and cargo for illegal narcotics in conformity with the authority granted by Congress to Customs officials, to seize any narcotics found, and to make arrests for referral to the appropriate civil authorities of the Federal Government. Is there any reason why, if this mission is properly defined and funded that the DoD could not support this legislation?

- B. The legislation would also authorize the use of U.S. Army personnel and equipment, pursuant to specific authority of the Secretary of Defense, to assist the Drug Enforcement Administration and the officials and law enforcement units of the Bureau of Land Management, the National Forest Service and the National Park Service detect and eradicate the cultivation of marijuana and any other narcotic crops found on land owned by the United States Government?

Is there any reason why, if this mission is properly defined and funded the DoD could not support this legislation.

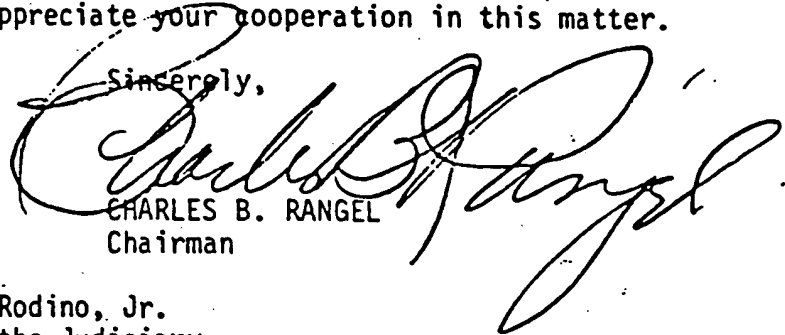
- C. Pursuant to specific authority of the Secretary of Defense, the Chief of the National Guard Bureau of the Army would assist the State National Guards on a need basis with helicopter and fixed wing aircraft, ground vehicles and logistical support to enable them pursuant to the orders of their Governors to effectively assist Federal, State and local law enforcement units in the detection and eradication of illicit marijuana and other narcotic crops within their states.

Is there any reason why, if this mission of the U.S. Army National Guard Bureau is properly defined and funded that the DoD could not support it?

The briefing we are requesting we would very much like to have from 8:00 a.m. to 9:30 a.m. on a Tuesday, Wednesday or Thursday in May. We would hope to have it in the Rayburn Building. All persons attending would have "Top Secret Security Clearances." In addition to 25 members of the Select Committee on Narcotics Abuse and Control that might participate we would anticipate inviting many other members who have an important interest in the issue of expanded military involvement in drug enforcement.

Please have your representative communicate with Chief of Staff, John T. Cusack, of this Committee to arrange for the time and place of the briefing. I very much appreciate your cooperation in this matter.

Sincerely,

A large, stylized handwritten signature in dark ink, which appears to read "Charles B. Rangel". The signature is written over the typed name and title.

CHARLES B. RANGEL
Chairman

cc: The Honorable Peter W. Rodino, Jr.
Chairman, Committee on the Judiciary

The Honorable Les Aspin
Chairman, Committee on Armed Services

All Select Committee Members